

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
3 DIVISION

SODAKCO, LLC, SOBEL, INC.,
BELSO, INC., JACKIE, LLC, and
SUITE 107, LLC (d/b/a CUPIDS LINGERIE)

PLAINTIFFS

VS.

CASE NO. CW9-866

FILED 02/04/09 11:42:31
Pat O'Brien Pulaski Circuit Clerk
CR12 By 9

ADAM LONGSTRETH, STEPHANIE FRAKES,
BRADLEY FRAKES, DUSTIN BEAN,
EDWARD HADDOCK, and
BLF&H, LLC d/b/a VERTIGE LINGERIE

DEFENDANTS

VERIFIED COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

Plaintiffs, Sodakco, LLC, Sobel, Inc., Belso, Inc., Jackie, LLC, and Suite 107, LLC (d/b/a as Cupid's Lingerie) ("Cupid's" or "Plaintiffs"), by their attorneys, Cox & Sterling, PLLC, for their Verified Complaint and Request for Injunctive Relief and for (i) breach of contract; (ii) violation of the Arkansas Trade Secrets Act; (iii) breach of fiduciary duty; (iv) conversion of property and confidential business information; and (v) unfair competition against Defendants, Adam Longstreth, Stephanie Frakes, Bradley Frakes, Dustin Bean, Edward Haddock and BLF&H, LLC d/b/a Vertige Lingerie ("Defendants"), state:

I. PARTIES

1. Sodakco, LLC, and Jackie, LLC are Arkansas limited liability companies with their principal place of business in Pulaski County, Arkansas. Suite 107, LLC is an Arkansas limited liability company with its principal place of business in Faulkner County, Arkansas. Sobel, Inc. and Belso, Inc. are Arkansas corporations with their principal place of business in Pulaski County, Arkansas. These entities do business collectively as Cupid's Lingerie in Pulaski and Faulkner Counties, Arkansas.

2. Upon information and belief, the individual Defendants are residents of either

Pulaski County, Faulkner County, or Saline County, Arkansas.

3. Upon information and belief, BLF&H, LLC is an Arkansas limited liability company with its principle place of business is in Pulaski County, Arkansas.

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction of this action under Ark. Code Ann. § 16-13-201.

5. This court has personal jurisdiction of Defendants by virtue of their citizenship and residence in the State of Arkansas.

6. This venue is proper under Ark. Code Ann. §§16-60-104, 113 and 116.

III. FACTS

7. Cupid's is a retail business that sells lingerie and adult novelties to the general public and maintains retail stores at four locations in the central Arkansas: 9700 North Rodney Parham, Little Rock; 3920 West 65th Street, Little Rock; 2585 Donaghey Ave, #107, Conway and 6111 John Harden Drive, Jacksonville.

8. Defendant Adam Longstreth ("Mr. Longstreth") began his employment at Cupid's on or about February 9, 2007, and held the position of General Manager at the time of his resignation from the Cupid's on or about December 2008. Mr. Longstreth was a member of management and was paid on a salaried basis.

9. Defendant Stephanie Frakes ("Ms. Frakes") began her employment at Cupid's on or about May 2006, and held the position of Corporate Accounting/Human Resources at the time of her resignation from Cupid's on or about December 2008. Ms. Frakes was a member of management and was paid on a salaried basis.

10. Defendant Bradley Frakes ("Mr. Frakes") held employment at Cupid's as Errand Runner/Maintenance on an intermittent basis at the time of his resignation from Cupid's in January 2009. Mr. Frakes was not a member of management and was paid on an hourly basis. Mr. Frakes is married to Ms. Frakes.

11. Dustin Bean began his employment with Cupid's on August 19, 2008, and held the position of the Store Manager at Cupid's Rodney Parham location until he was discharged on January 15, 2009. Mr. Bean was a member of management and was paid on a salaried basis.

12. Mr. Longstreth, as General Manager at Cupid's, and Ms. Frakes, in her role as Corporate Accounting/Human Resources at Cupid's, drafted the Addendum to Handbook (the "Agreement") contained in Exhibit "A" and were responsible for ensuring that every newly hired management employee or employee promoted to a management position signed the Agreement.

13. As a condition of his employment, Mr. Longstreth signed the Agreement on or about May 7, 2008.

14. Mr. Longstreth's personnel file, including the signed Agreement, was removed by an unknown person from Cupid's business office located at 6111 John Harden Road in Jacksonville, Arkansas. Only Mr. Longstreth, Ms. Frakes, Spencer Elmen ("Mr. Elmen"), Steve Waite, co-owners of Cupid's, and David Karn had access to the room in which these files were stored.

15. As a condition of her employment, Ms. Frakes signed the Agreement on or about May 9, 2008. See Exhibit "B," attached hereto.

16. As a condition of his employment, Mr. Bean signed the Agreement on or about August 19, 2008. See Exhibit "C," attached hereto.

17. The Agreement contains, *inter alia*, a "Non-Disclosure Agreement" which provides:

As a salary manager with Cupids Lingerie you are in a position involving sensitive information that cannot be disclosed with outside parties. Such as the following;

Company financials, vendor contacts, product resources, purchase tactics, merchandising and operations strategy.

See Exhibit "A"

18. The Agreement also contains a "Non-Competitor" provision which provides:

Cupid's Lingerie provides you with knowledge in all areas of its operability to ensure that the company is run with the standards across the board. Cupid's Lingerie including all of its subsidiaries provides sensitive information and operation procedures that should not be carried outside of the company upon the termination, resignation or leave of your employment. These terms are carried for a Twenty four month period after the date of your final pay date. No business should be conducted involving the specific products that are carried not only in our stores, but by any vendor we have structured business with. Any products by the nature of business should not be sold, as it is in direct competition with Cupid's Lingerie.

See Exhibit "A"

19. In conducting its business, Cupid's relies upon highly confidential information concerning its business operations, including, but not limited to, (1) the design of its proprietary inventory tracking system; (2) the identity of its vendors and vendor transaction records; (3) financial records for both the business and personal accounts of Cupid's owners; (4) Cupid's customer sales data and analysis of market trends for use in product acquisition; and (5) marketing strategy, all of which constitute trade secrets under Arkansas law in that they derive independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and Cupid's employs reasonable efforts to maintain their secrecy under the circumstances, including requiring its managerial employees sign the above-described

Agreement; and all of which constitute confidential business information protectable under Arkansas law.

20. By virtue of their employment at Cupid's, Mr. Longstreth, Ms. Frakes and Mr. Bean gained access to its trade secrets and confidential business information for the sole purpose of performing their job duties for Cupid's. Many of these trade secrets and confidential business information were stored on laptop computers that were provided to Mr. Longstreth, Ms. Frakes, and Mr. Bean.

21. Cupid's allowed the Defendants access to its trade secrets and confidential business information believing that they would abide by their duties under the Agreement and Arkansas law to keep this information confidential and that they would not use or disclose any trade secrets or confidential business information except to the limited extent necessary to perform their duties on behalf of Cupid's. Defendants are responsible for maintaining the secrecy of Cupid's trade secrets to which they were allowed access.

22. Over the course of six and a half years, Cupid's has made a significant monetary investment in the development of a point of sale tracking software and accounting software that would interact in an effective manner. After abandoning a system that cost over \$100,000.00 to develop, Cupid's researched and purchased two software programs from separate software companies and customized the programs to work together effectively in a proprietary manner ("inventory tracking system"). The resulting inventory tracking system is so effective that Plaintiffs now sell the inventory tracking services to small businesses in central Arkansas.

23. By virtue of their employment, Mr. Longstreth and Ms. Frakes participated in the development of Cupid's inventory tracking system and gained an intimate understanding of its structure and functionality. Mr. Longstreth and Ms. Frakes took from Cupid's not only the

knowledge of the system, but Mr. Longstreth also took a copy of the system contained on his laptop computer. The inventory tracking system is a significant tool that Cupid's employs to successfully operate its business and is not generally known by others outside Cupid's management. Cupids has expended great efforts to maintain its confidentiality, including requiring members of its management sign the above-mentioned Agreement as a condition of their continued employment with the company.

24. Over the course of six and a half years, Cupid's has identified and developed relationships with specific vendors that allow it to obtain specific products that are of high quality, at a beneficial price, and that are recommended by vendors because of the products' sales success in other markets.

25. By virtue of their employment at Cupid's, Mr. Longstreth and Ms. Frakes were able to develop relationships with Cupid's vendors, which now allow them to obtain preferential treatment from these vendors because of relationships developed over the course of their employment with Cupid's and at Cupid's expense.

26. By virtue of their employment at Cupid's, Mr. Longstreth and Ms. Frakes were provided with laptop computers on which they were able to access vendor lists and vendor transaction histories. Mr. Longstreth and Ms. Frakes took from Cupids not only the knowledge of the vendor lists and vendor transaction data, but also copies of the lists and the data contained on both laptop computers. Mr. Longstreth returned one laptop computer on January 21, 2009, after several requests from Cupid's and the assistance of police. Mr. Longstreth removed all software and data from the laptop before returning it. Ms. Frakes continues to retain the laptop computer obtained while in the employ of Cupid's and containing confidential information of Cupid's.

27. By virtue of their employment, Mr. Longstreth and Ms. Frakes were given access to financial records for both the business and personal accounts of Cupid's owners. Mr. Longstreth and Ms. Frakes took from Cupid's not only the knowledge of financial records for both the business and personal accounts of Cupid's owners, but also copies of the data on laptop computers. Accordingly, Defendants know the salaries of Cupid's employees and owners, costs to acquire goods and services, gross revenue and profits, rents, general overhead associated with Cupid's business operations, and all other financial information necessary to open and successfully operate a retail lingerie and adult novelty business, which Cupid's has expended great effort to maintain the confidentiality thereof and is not generally known to others outside Cupid's management. Among those efforts is Cupid's requirement that those persons in management positions sign the above-mentioned Agreement.

28. Each Cupid's location has a demonstrably different customer base and, therefore, demonstrably different purchasing trends by those customers. By virtue of their employment, Mr. Longstreth and Ms. Frakes were given access to these Cupid's customer sales data. Mr. Longstreth and Ms. Frakes took from Cupid's not only the knowledge of the customer sales data, but also copies of the data on laptop computers. In addition, Mr. Longstreth, Ms. Frakes and Mr. Bean, by virtue of their employment with Cupid's were given access to Cupid's marketing strategy information, including its advertising budget, expenses, target demographics for each store, negotiated advertising rates, successful and unsuccessful advertising campaigns, and terms and conditions of both short- and long-term advertising contracts.

29. Over the course of six and a half years, Cupid's has maintained and analyzed customer sales data that allows it to identify and predict specific market trends for the individual geographic areas that it serves. This data allows Cupid's to select products that are most likely to

sell based on each store's geographic location within central Arkansas. The customer sales data, market trend analysis, and marketing strategy are significant tools that Cupid's employ to successfully operate its business and is not generally known by others outside Cupid's management. Cupid's has expended great efforts to maintain its confidentiality, including requiring members of its management sign the above-mentioned Agreement as a condition of their continued employment with the company.

30. During his employment as General Manager at Cupid's, Mr. Longstreth was asked to develop a website through which Cupid's could sell its products via the Internet. Mr. Longstreth repeatedly told Mr. Elmen that he did not have time to begin this project.

31. While employed by Cupid's, Mr. Longstreth registered the domain name vertigelingerie.com on November 5, 2008.

32. Mr. Longstreth, Ms. Frakes and Mr. Bean formed a limited liability company, BLF&H, LLC, designed to compete directly with Cupid's on November 6, 2008, during which time each was employed at Cupid's.

33. On or about December 26, 2008, Mr. Longstreth launched a website at www.vertigelingerie.com that sells products that are identical to the products sold at Cupid's in direct violation of the Agreement.

34. On January 15, 2009, Cupid's discovered a BLF&H, LLC business plan for Vertige Lingerie on a business phone issued to Mr. Bean. The plan lists Mr. Longstreth, Ms. Frakes, Mr. Frakes, Mr. Bean, and Mr. Haddock as principals in Vertige Lingerie.

35. Upon information and belief, Mr. Longstreth, Ms. Frakes, and Mr. Bean have shared Cupid's confidential and trade secret information with their business partners, Mr. Frakes and Mr. Haddock, for use in competing directly with Cupid's without Cupid's consent and in

violation of the Agreement.

COUNT I
BREACH OF CONTRACT AND INJUNCTIVE RELIEF

36. Cupid's incorporates by reference paragraphs 1 through 35 as if restated herein word for word.

37. Mr. Longstreth and Ms. Frakes acted in direct breach of their Agreements, specifically by becoming principals in BLF&H, LLC, a limited liability company that owns an online sales site that competes directly with Cupid's by selling the same specific products currently or recently sold at Cupid's and products supplied by Cupid's specific vendors.

38. Mr. Longstreth and Ms. Frakes are working as principals in BLF&H, LLC toward opening a retail store that competes directly with Cupid's, and upon information and belief, will sell specific products currently or recently sold at Cupid's and products supplied by Cupid's specific vendors.

39. Cupid's has been damaged, and will likely sustain additional damages in the future, as a direct and proximate result of the breach by Mr. Longstreth and Ms. Frakes.

40. Cupid's remedy at law for breach of the Agreement is inadequate. In addition, without injunctive relief, Cupid's will be irreparably harmed. Therefore, Cupid's seeks immediate injunctive relief, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure and Ark. Code Ann. § 4-75-604, enjoining Mr. Longstreth and Ms. Frakes from further breach of the Agreement – specifically, from participating in any form of business that competes with Cupid's by selling products that are sold by Cupid's and products sold by Cupid's vendors for a period of two years.

41. The terms of the Agreement, and the surrounding facts, demonstrate that Cupid's has a substantial likelihood of success on the merits. The balancing factors of equity likewise favors the issuance of injunctions against Mr. Longstreth and Ms. Frakes. Upon information and belief, all the actions alleged herein continue to take place.

42. Unless Mr. Longstreth and Ms. Frakes are preliminarily and permanently enjoined

from the foregoing conduct and breach of the Agreement, Cupid's will continue to suffer irreparable harm including present and future economic losses, which is largely unascertainable at this time.

**COUNT II
VIOLATION OF ARKANSAS TRADE SECRET ACT**

43. Cupid's incorporates by reference paragraphs 1 through 42 as if restated herein word for word.

44. Defendants are improperly using and misappropriating Cupid's trade secrets and confidential, proprietary business information, in direct contravention to the Arkansas Trade Secrets Act, Ark. Code Ann. §§ 4-75-601 through 607 ("the Act").

45. The information used and misappropriated, Cupid's inventory tracking systems, vendor lists and vendor transaction data, financial records, customer sales data, market analysis, and marketing strategy, fall within the definition of a trade secret of Cupid's under the Act.

46. As a direct and proximate consequence of the foregoing willful and malicious acts, Cupid's has suffered and will continue to suffer irreparable harm and currently incalculable financial losses.

**COUNT III
BREACH OF FIDUCIARY DUTY**

47. Cupid's incorporates by reference paragraphs 1 through 46 as if restated herein word for word.

48. Defendants have violated the common law fiduciary duty of loyalty owed to Cupid's as their employer in that while employed by Cupid's, they secretly planned to leave the employ of Cupid's; schemed to deprive Cupid's of its records, and trade secrets; diverted business away from Cupid's and solicited employees to leave Cupid's in an attempt to establish a business in direct competition with Cupid's. These actions constitute self-dealing.

49. As a direct and proximate consequence of the foregoing self-dealing, Cupid's has

suffered and will continue to suffer irreparable harm and currently incalculable financial losses.

**COUNT IV
TORT – CONVERSION**

50. Cupid's incorporates by reference paragraphs 1 through 49 as if restated herein word for word.

51. The foregoing conduct of Defendant constitutes a conversion of Cupid's proprietary information and trade secrets in that said information and trade secrets are owned by Cupid's, and that Defendants intentionally took or exercised domain and control over the information and trade secrets in violation of Cupid's rights.

52. The foregoing conduct of Defendant constitutes a conversion of Cupid's physical property.

53. As a consequence of the foregoing, Cupid's has suffered and will continue to suffer irreparable harm and currently incalculable financial losses.

**COUNT V
UNFAIR COMPETITION**

54. Cupid's incorporates by reference paragraphs 1 through 53 as if restated herein word for word.

55. The foregoing conduct of Defendants constitutes an unfair method of competition.

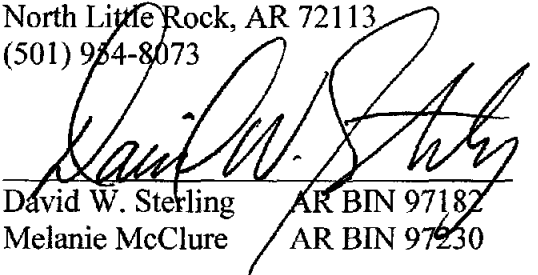
56. As a consequence of the foregoing, Cupid's has suffered and will continue to suffer irreparable harm and currently incalculable financial loss.

WHEREFORE, Plaintiffs, Sodakco, LLC, Sobel, Inc., Belso, Inc., Jackie, LLC, and Suite 107, LLC (d/b/a as Cupid's Lingerie), respectfully request injunctive relief, attorney's fees, costs and other such relief as this Court deems just and proper, including a preliminary and permanent injunction for a period of two (2) years prohibiting Defendants Adam Longstreth, Stephanie Franks, Dustin Bean, Bradley Frakes, Edward Haddock, and all members of BLF&H, LLC from engaging in business that is directly competitive to Cupid's.

Respectfully submitted,

COX & STERLING, PLLC
8712 Counts Massie Road
North Little Rock, AR 72113
(501) 984-8073

BY:

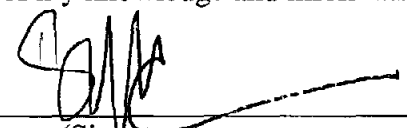

David W. Sterling AR BIN 97182
Melanie McClure AR BIN 97230

Attorneys for Sodakco, LLC, Sobel, Inc.,
Belso, Inc., Jackie, LLC, and Suite 107, LLC

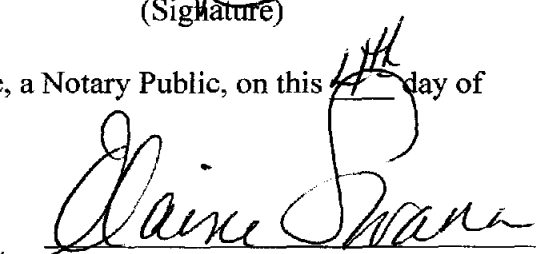
VERIFICATION

STATE OF ARKANSAS)
) s.s.
COUNTY OF PULASKI)

I, Spencer Elmen, after being duly sworn, states that I make this verification based on personal knowledge, and I have read the allegations of the foregoing Verified Complaint and I hereby declare that they are true and correct to the best of my knowledge and information.


(Signature)

SUBSCRIBED AND SWORN before me, a Notary Public, on this 14th day of February, 2009


NOTARY PUBLIC

My Commis



Addendum to Handbook

Non-Disclosure Agreement

As a salary manager with Cupids Lingerie you are in a position involving sensitive information that cannot be disclosed with outside parties. Such as the following;

Company financials, vendor contacts, product resources, purchase tactics, merchandising and operations strategy.

Non-Competitor

Cupids Lingerie provides you with knowledge in all areas of its operability to ensure that the company is run with the same standards across the board. Cupids Lingerie including all of its subsidiaries provides sensitive information and operation procedures that should not be carried outside of the company upon the termination, resignation or leave of your employment. These terms are carried for a Twenty four month period after the date of your final pay date. No business should be conducted involving the specific products that are carried not only in our stores, but all products by any vendor we have structured business with. Any products by the nature of business should not be sold, as it is in direct competition with Cupids Lingerie.

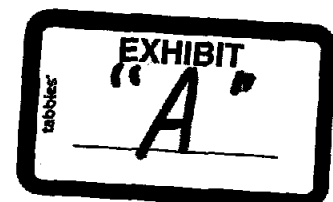
Financial Information

Cupids Lingerie gives you access to accounts in which it operates by means of; Depositing, check writing, credit purchasing power as well as statement information. Which should not be disclosed specifically to anyone that does not directly interact with current financial obligations of Cupids Lingerie.

By accepting payroll from this date forward you are accepting all terms set by Cupids Lingerie as well as any of its subsidiaries.

Employee Signature

Date



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Cupid's Lingerie Employee Handbook

I have read the policies outlined in this handbook. I understand that while this is not an employment contract I am bound to abide by the policies set herein.

I further understand that CUPID'S LINGERIE may modify, revise and update this manual at any time. I am also aware that this updating may include additions or deletions.

I also certify that I have had ample time to discuss this handbook and its contents with CUPID'S LINGERIE representatives and I fully understand the contents.

With this knowledge I accept the policies outlined herein as a condition of employment.

Employee signature



Date

5/9/08

CUPID'S LINGERIE reserves the right to make changes to this handbook for the purpose of modifying, revising and updating company policy and this manual. Notice of changes will be posted on the bulletin boards and become a part of this manual. Violation of any company policy may result in immediate termination.

Addendum to Handbook

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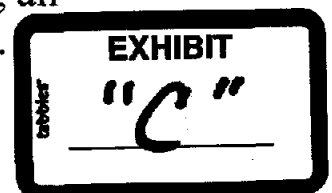
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With this knowledge I accept the policies outlined herein as a condition of employment.

Employee signature

D. Ben

Date

9.19.08

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